S.B. CRIMINAL REVISION PETITION NO.419/2007
(SURENDRA SINGH VS. STATE OF RAJASTHAN)

S.B. CRIMINAL REVISION PETITION NO.383/2007
(MANOHAR SINGH & ORS. VS. STATE OF RAJASTHAN)

DATE OF ORDER : 28.11.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. K.S. Rathore }
Mr. Mahesh Thanvi } for the petitioners.
Mr. Vishnu Kachhawaha, Public Prosecutor.

On 18.09.2003 at about 01:15 p.m., when Leader of Opposition in State Legislative Assembly, was visiting P.B.M. Government Hospital, Bikaner, the accused persons including the petitioners said to have attacked upon him and one accused Satyaveer said to have attacked with knife, consequent thereto, one person Shri Deepak Arora who was accompanying the Leader of Opposition received certain injuries. After regular investigation, a police report was submitted as per the provisions of Section 173 Cr.P.C. seeking trial for the offences under Section 307, 332, 353, 352, 452, 336, 427, 147, 148, 149 IPC. The Additional Sessions Judge (Fast Track) No.1, Bikaner by the order dated 18.04.2007 framed charges against the accused persons including the petitioners for the offence punishable under Sections 307, 332, 353, 352, 452, 336, 427, 147, 148, 149 IPC.

By these petitions under Section 397 read with Section 401 Cr.P.C., while giving challenge to the order dated 18.04.2007, the contention of counsel for the petitioners is that no presumption for commission of an offence punishable under Section 307 IPC could have been drawn on basis of the police report and the documents annexed thereto.

This Court by the order dated 07.05.2007, called record of the trial court, thus, I had occasion to examine the entire record along with the order impunged.

From perusal of the police report, it is apparent that an allegation of making an assault by knife pertains to Satyaveer and not to the petitioners. The injury reports relating to injured Deepak Arora also shows that he received 7 injuries and all those are simple. Out of those 7 injuries, only one injury in middle and little fingres of the right hand is received by sharp weapon. There is nothing on record on basis of that a presumption could have been drawn at least against the present petitioners for their involvement in any offence punishable under Section 307 IPC. Nothing on record is available to establish that the present petitioners ever intended to commit murder of the Leader of the Opposition and also the persons accompanying him.

In view of the discussion above, I am of the considered opinion that the learned Additional Sessions Judge by the order impugned, wrongly drew presumption at least against the petitioners to proceed with the trial for the offence punishable under Section 307 IPC.

Accordingly, these revision petitions are accepted and the order impugned dated 18.04.2007 passed by learned Additional Sessions Judge (Fast Track) No.1, Bikaner is quashed to the extent it relates to framing of charge under Section 307 IPC against the petitioners.

The record called for be sent to the trial court forthwith.

(GOVIND MATHUR)J.

Anil/